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Before the  
Federal Communications Commission DA 96-469  
Washington, D.C. 20554

In the Matter of ) MM Docket No. 96-73  
)  
Fisher Broadcasting, Inc. ) File No. BR-900208VF  
)  
)  
For Renewal of License )  
for Station KDLB(AM) )  
Henryetta, Oklahoma )

HEARING DESIGNATION ORDER

Adopted: March 28, 1996

Released: April 1, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) the captioned application for renewal of license filed by Fisher Broadcasting, Inc. ("Fisher"), licensee of AM Station KDLB, Henryetta, Oklahoma, and (b) the results of an investigation into the station's silent status.<sup>1</sup>

2. The Commission's records indicate that KDLB(AM) has been off the air since May 29, 1991, and that the special temporary authority permitting the station to remain silent expired April 29, 1993. Thus, KDLB(AM) has been off-air for over four years and presently is not authorized to remain silent. Consequently, Fisher is in apparent violation of Sections 73.1740<sup>2</sup> and 73.1750<sup>3</sup> of the Commission's Rules.

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<sup>1</sup>The Mass Media Bureau has been delegated authority to designate for hearing the renewal of license applications of silent broadcast stations. See Moenkopi Communications, Inc., 8 FCC Rcd 3990 (1993).

<sup>2</sup>Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such

3. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal of license application of KDLB(AM), Henryetta, Oklahoma, IS DESIGNATED FOR HEARING at a time and location to be specified in a subsequent Order, upon the following issues:

- (1) To determine whether Fisher Broadcasting, Inc. has the capability and intent to expeditiously resume the broadcast operations of KDLB(AM), consistent with the Commission's Rules.
- (2) To determine whether Fisher Broadcasting, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

4. IT IS FURTHER ORDERED, That, in the event it is determined that grant of the renewal of license application would serve the public interest, convenience and necessity, the grant will be conditioned on the expeditious resumption of operation, the precise period of time to be established in the hearing. Failure to resume operations within the time specified

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period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

<sup>3</sup>Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

in the condition will result in the cancellation of the license and the deletion of the station's call letters.

5. IT IS FURTHER ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the LICENSEE, Fisher Broadcasting, Inc.

6. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.221(c) of the Commission's Rules, SHALL FILE with the Commission, in person or by attorney, within twenty (20) days of the receipt of this Order a WRITTEN APPEARANCE stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, That the licensee herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

8. IT IS FURTHER ORDERED, That, if it is determined that the hearing record does not warrant an Order denying the renewal of license application of KDLB(AM), Henryetta, Oklahoma, it shall be determined, pursuant to Section 503(b) of the Communications Act of 1934, as amended, whether an ORDER OF FORFEITURE shall be issued against the licensee in an amount not exceeding \$250,000.00 for the willful and/or repeated violation of Section 73.561 and/or 73.1750 of the Commission's Rules.

9. IT IS FURTHER ORDERED, That, in connection with the possible forfeiture liability noted above, this document constitutes notice pursuant to Section 503(b)(3) of the Communications Act of 1934, as amended. The Commission has determined that in every case designated for hearing involving revocation or denial of assignment, transfer, or renewal of license for alleged violations which also come within the purview of Section 503(b) of the Communications Act of 1934, as amended, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Accordingly, we stress that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of this case should be.

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell  
Assistant Chief, Audio Services Division  
Mass Media Bureau